

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Herbert Tyrone Benjamin,)	C/A No. 9:19-cv-03196-SAL
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Scott Lewis, Warden,)	
)	
Defendant.)	
_____)	

This matter is before the Court for review of the January 31, 2020 Report and Recommendation of United States Magistrate Judge Bristow Marchant (the “Report”), ECF No. 12, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (D.S.C.). In the Report, the Magistrate Judge recommended dismissing this action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, where Plaintiff has failed to respond to or comply with the Magistrate Judge’s proper form Order, ECF No. 7, filed on January 2, 2020. *See* ECF No. 12. No party filed objections to the Report, and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the Court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the Court finds no clear error, adopts the Report, and incorporates the Report by reference herein. Accordingly, this action is hereby DISMISSED without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Plaintiff's Motion for Leave to Proceed in forma pauperis, ECF No. 2, is DENIED as moot.

IT IS SO ORDERED.

/s/ Sherri A. Lydon
United States District Judge

April 24, 2020
Florence, South Carolina